

Paul M. Wach
Pro Se

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JAN 30 2023
U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

Paul Michael Wach ,
Petitioner,

v.

Custodian: Warden Robert Powell,
Respondents

Petitioner's Motion to Strike Respondents Surreply
Under DuCivR 56-1.

Case No. 2:22-CV-00048

Judge: Dale Kimball

Petitioner respectfully submits his motion pursuant to DuCivR 7 and in compliance with local rules.

Relevant Facts

1. Original Filings by Petitioner

Paul M. Wach

Petition for a Writ of Habeas Corpus under 28 USC § 2241

Case No. 2:22-CV-0048

Judge Kimball

Date Filed: January 10th 2022

2. Respondents first Response

The Utah Board of Pardons and Parole, et al

Respondents Motion to Dismiss and Memorandum in Support

Case No. 2:22-CV-0048

Judge Kimball

Date Filed: November 28th 2022

3. Petitioners Reply to Respondents Response

Paul M. Wach

Petitioners Response to Respondents Motion to Dismiss and Memorandum in Support

Case No. 2:22-CV-0048

Judge Kimball

Date Filed: December 22nd 2022

4. Respondents second response

The Utah Board of Pardons and Parole, et al

Reply in Support of Respondents Motion to Dismiss

Case No. 2:22-CV-0048

Judge Kimball

Date Filed: January 11th 2023

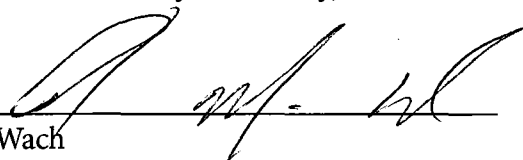
Argument

Petitioner submits this Motion to Strike Respondents Surreply Under DuCivR 56-1. The Court should grant this Motion to Strike because Respondents did not seek the Courts permission before filing a surreply nor is this type of reply contemplated by the applicable rules without the leave of this court. Rule 56-1 and 7-1 of the Local Rules of Civil Procedure only provides for three filings in this situation: (1) Motion, (2) Response, (3)Reply. Such a surreply is not contemplated by the current rule DuCivR 56-1. Petitioner did not raise new material in their reply brief that would warrant this Court's consideration of Respondents surreply notwithstanding Respondents failure to seek the Courts leave to file Respondent's reply.

Conclusion

Neither the local rules nor the Federal Rules of Civil Procedure provide for a surreply by a non-moving party. Thus Respondents are not entitled to this Courts consideration of their surreply.

Submitted this 26th day of January, 2023



Paul M. Wach

Pro Se

CERTIFICATE OF MAILING

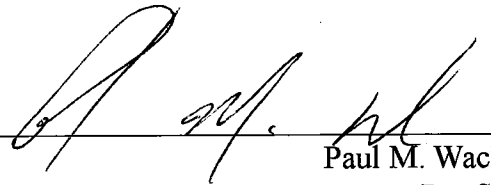
I certify that true and correct copies of **Petitioner's Motion to Strike Respondents Surreply Under DuCivR 56-1** was mailed Postage Prepaid on January 26th, 2023 to the following:

United States District Court
ATTN: Office of the Clerk of the Court
351 South West Temple
Salt Lake City, Utah 84101

and

Office of the Utah State Attorney General
ATTN: Amanda N. Montague (9941)
160 East 300 South
P.O. Box 140812
Salt Lake City, Utah 84114

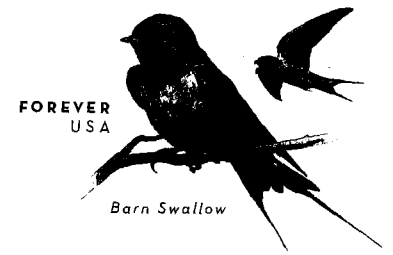
X



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